

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Criminal No. 1:23-cr-130

United States of America,

Plaintiff,

vs.

ROMAN SOBOTTOKE,

Defendant.

SENTENCING POSITION

INTRODUCTION

Almost six years ago, a very drunk Roman Sobottke punched and choked his wife, Tashena.¹ It was a horrible crime then, and it's a horrible crime now. But to save Roman's job as a tribal police officer, Tashena didn't press charges.² Instead, the two reconciled and, amazingly, had more kids.³ And for more than five years, this détente worked well. But the poisons of alcohol and infidelity never fully fade, and the couple's problems reemerged in 2023.⁴ At the height of the animosity, Tashena

¹ Roman Sobottke's Presentence Report ("PSR") at ¶ 4.

² *Id.*

³ *Id.* at ¶¶ 4-6, 35.

⁴ *Id.* at ¶¶ 5-6.

recorded an again very drunk Roman admitting to the 2018 assault.⁵ She sent it to her mother, who then sent it to tribal police—Roman’s employer.⁶

Upon receipt, the police department quickly put Roman on leave and later fired him.⁷ Which they should have done. And since the assault happened in Indian Country, the United States charged Roman criminally.⁸ Which they should have done. After being charged, Roman admitted to the conduct and pleaded guilty immediately.⁹ Which he should have done. And while awaiting sentencing, Roman has lived in New Town, remained in a relationship with Tashena, and continued to help raise their six children.¹⁰ Which he should have done.

Now comes the hard part: what “should be done” as to sentencing Roman. Because on the one hand, his assaultive conduct is no doubt concerning. But on the other hand, it happened nearly six years ago, he quit drinking and turned his life around, and he’s still in a relationship with Tashena —one that’s happier, stronger,

⁵ *Id.* at ¶ 5.

⁶ *Id.* at ¶ 6.

⁷ *Id.* at ¶ 42.

⁸ *Id.* at ¶ 1.

⁹ *Id.* at ¶ 2.

¹⁰ *Id.* at ¶¶ 34-35.

and more loving than ever. After weighing these competing interests, and considering the factors of 18 U.S.C. § 3553(a), Roman respectfully requests that the Court sentence him to no more time in prison.

BACKGROUND

1) A troubled childhood.

Given his childhood, it's no wonder Roman has struggled with marijuana and alcohol for most of his life.¹¹ After his parents divorced shortly after his birth, Roman was left to be raised by his mother and stepfather.¹² The problem, however, was that both struggled with drugs and alcohol.¹³ And this two-headed addiction permeated into all aspects of Roman's childhood. It caused neglect, abuse, hunger, and homelessness.¹⁴ He wasn't loved, he wasn't cared for, and he wasn't given an opportunity to flourish. Instead, he lived meal-to-meal and home-to-home.¹⁵

Yes, Roman made the choice to take the first drink of alcohol that eventually led to his alcoholism, which eventually led to the crime that brings him before the

¹¹ *Id.* at ¶¶ 32-33, 38-39.

¹² *Id.* at ¶ 32.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

Court today. But it's hard to say it was the same "choice" as a child who comes from a happy, stable, loving home. Roman didn't have a childhood; he survived it. That he's done as well as he has, given where he came from, merits consideration.¹⁶

2) Escape to North Dakota and success.

Roman finally escaped his troubled life when he moved to North Dakota at age 21.¹⁷ While he came to weld through Job Corps, he instead found work in the then-booming oilfields.¹⁸ But after a few years as a roustabout, Roman hung up his steel toes to pursue his lifelong dream: a career in law enforcement.¹⁹ He first worked as a patrol deputy in Washburn, then later as a sergeant for the Three Affiliated Tribes police.²⁰ In total, Roman was on the force for six years, and but for this case, he'd still be proudly serving his community today.

Although Roman's career ended unceremoniously, he served the profession honorably, was well-liked by his bosses and peers, received various commendations,

¹⁶ *See* 18 U.S.C. § 3553(a)(1) (requiring sentencing judges to consider "the history and characteristics of the defendant").

¹⁷ PSR at ¶ 34.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at ¶¶ 34, 42.

and had no reported incidents of misconduct. In short, Roman was a good cop who loved being a cop, and losing that identity forever has been among the hardest pills for him to swallow. Based on what he did, he knows he deserves it. But it's still tough knowing that North Dakota lost a good cop when Roman handed over his badge. And while he'll find other work, as shown by his success on pretrial release,²¹ Roman will always be a police officer at heart. For once it arrives, the thin blue line never fully leaves. This law enforcement service also merits consideration.²²

3) Meeting and marrying Tashena.

Another key to Roman's success in North Dakota was meeting and marrying his wife, a woman named Tashena Bird (now Sobottke).²³ The two met at Job Corps in 2012, and began dating shortly after. Knowing early on she was the one, Roman asked Tashena to marry him after only one year of dating. She said yes, and they got married in New Town in 2014. And no matter what happens here, this was the best decision of Roman's life. It's just too bad it took this case for him to finally see it. Back then, unfortunately, the honeymoon phase was short-lived, as a series of bad behavior by both parties caused the relationship to turn rocky.

²¹ *Id.* at ¶ 42.

²² *See* 18 U.S.C. § 3553(a)(1).

²³ PSR at ¶ 35.

It's important to note that undergirding all of this was Roman's drinking and marijuana smoking, two things he'd been doing more or less nonstop since age 14.²⁴ Nobody is the best version of themselves when they're using, and Roman was no exception. During active addiction, Roman was never a good husband to Tashena.²⁵ This includes the assault at issue, but also other assaults Roman committed against Tashena early in their marriage.²⁶ There's no easy way to talk about these, and it's hard for Roman to even reflect on them. But they happened. And Roman accepts responsibility for them. Drugs and alcohol are no excuse, but they're an explanation, and it's unlikely any of it would have happened had Roman been clean and sober then like he is now.²⁷

4) Infidelity and assault.

So what caused the assaults? Well, mostly Roman's decision to commit them despite knowing it was morally and legally wrong to do so.²⁸ But a distant second was

²⁴ *Id.* at ¶¶ 38-39.

²⁵ *Id.* at ¶ 35.

²⁶ *Id.* at ¶¶ 23-24, 35.

²⁷ *Id.* at ¶ 35 (Roman never hit Tashena until he started drinking), ¶ 39 (Roman last consumed alcohol in January 2023).

²⁸ *Id.* at ¶ 9.

the multiple instances of infidelity committed by both Roman and Tashena.²⁹ This mutual disrespect for their marriage and for one another caused a seismic rift between the two, which in turn led to near constant arguing and fighting. Now sprinkle in Roman's drinking and drugging, and it was a recipe for disaster.³⁰

And sure enough, disaster struck, in 2014 and 2018.³¹ The 2014 assaults are not part of the charges here, but to ignore them is to ignore reality. During that time, at the height of his addiction, Roman expressed his marital frustration in the worst way possible—physically. Was it wrong for Tashena to cheat on Roman? Of course. Was Roman justified to be mad about Tashena's infidelities? Of course. But was it OK for Roman to take out his anger on Tashena physically? Absolutely not.

And that's the difference between Tashena's bad decisions and Roman's. When Roman was unfaithful, Tashena yelled and screamed at him.³² That's justifiable. When Tashena was unfaithful, Roman physically harmed Tashena.³³ That's completely unjustifiable. There's no excuse for what Roman did; but once

²⁹ *Id.* at ¶¶ 9, 24, 35.

³⁰ *Id.* at ¶¶ 38-39.

³¹ *Id.* at ¶¶ 4-6, 9, 23-24.

³² *Id.* at ¶ 24.

³³ *Id.* at ¶¶ 24, 35.

again, there's an explanation. It doesn't make it right, but it gives the situation color. The couple had a tumultuous marriage, rife with infidelity. Both are to blame for this. But only Roman is to blame for the way he took out his anger.

5) Reconciliation.

Despite the assaults, miraculously, Tashena stayed with Roman.³⁴ This is a testament to Tashena, but also to Roman, meaning there must be something good there for Tashena to want to stay. And there is: he's a great dad. The couple has five biological children and one adopted child.³⁵ Four of the five biological children were born *after* the assaults. Translation: not only did Tashena stay with Roman after the incidents, the two reconciled enough for Tashena to want to have *more* kids with him. That's a big deal, as it's good insight into the man Roman is and can be when he's not drinking and drugging. In short, sober Roman is successful Roman.³⁶ It's police officer Roman. It's loving husband Roman. It's good dad Roman.

And Tashena saw this, did the risk-reward analysis, and believed that good Roman outweighed bad Roman enough to stay with him. She did so in 2014, and again in 2018. Roman deserved neither her grace nor her mercy, nor did he fully

³⁴ *Id.* at ¶ 35.

³⁵ *Id.*

³⁶ *Id.* at ¶¶ 3, 34-35, 42.

grasp the selflessness of those choices at the time. But he does now. And he's made changes now that he didn't in 2014 and 2018. Roman and Tashena have gone through hell together, and it hasn't been an easy ride. But they're still together. And that's for a reason: because deep down they love one another unconditionally. Outwardly it may not always seem like it, but inwardly it's the only explanation for their decade of marriage.

6) More infidelity and the admission.

Reconciliation without change is reconciliation in name only. Unfortunately, that's what happened during Roman and Tashena's first two attempts at fixing their marriage. Old habits also die hard. And so after periods of happy times, the couple fell back into their old ways, began cheating on one another again, and it was only a matter of time until their marital powder keg erupted again.

This time the eruption occurred in early 2023. After a night of heavy drinking, the couple began arguing about what they always argued about: who was cheating on who with whom. Such a fight never ends well, but unlike 2018, Roman didn't get physical with Tashena. Instead, the war was waged solely with words. And those words are why Roman's here today. Because during the fight, in the midst of his blackout, Tashena began questioning Roman about what he'd done in 2018.³⁷

³⁷ *Id.* at ¶ 5.

Roman drunkenly answered her questions, and admitted his transgressions.³⁸ Unbeknownst to Roman at the time, however, Tashena used her phone to video his incriminating responses.³⁹ Her rationale? To have to use against Roman if she ever needed. And that’s exactly what she did. Days later, when another infidelity-related fight broke out, Tashena left and went to her grandmother’s.⁴⁰ Upset, Roman rang Tashena’s phone nearly 100 times and also called her disparaging names.⁴¹ In response, Tashena —*in a move she now greatly regrets*—sent Roman’s admission to her mother.⁴² Her mother then forwarded the video on to tribal police.⁴³

7) Fired from the force, felony forthcoming.

The moment the police received and reviewed the video of one of their officers admitting to assault, it was the end of the line for Roman. The jig was up. The department put Roman on “administrative leave,” but everyone knew that was really just the first step towards firing him. And about nine months later, that’s

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at ¶ 6.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

exactly what happened.⁴⁴ No more job. No more cop. No more badge. No more pension. No more anything. The job Roman dreamed of doing his whole life—the one he had worked so hard to get—down the drain. And he had nobody to blame but himself. It was his choice to drink. And it was his choice to assault Tashena. Reaping what one sows is the hardest lesson of all, and Roman was learning it in spades.

As if losing his dream job wasn't enough, he also quickly realized the seriousness of the case against him. A federal charge. There's a reason people say "don't make a federal case out of it." They do so because it's such a big damn deal. Especially because this was the first time Roman had ever gotten in real trouble in his life.⁴⁵ He went from 0 to 100, real quick.⁴⁶ On top of the likely prison sentence that comes with a federal conviction, Roman also had to grapple with what having a felony on his record would mean for the rest of his life.

While there are many collateral consequences, two big ones stuck out for Roman. First, no chance to be a cop ever again—a job he loved. Second, no chance to hold, shoot, or hunt with a gun ever again—a hobby he loved. Actions have

⁴⁴ *Id.* at ¶ 42.

⁴⁵ *Id.* at ¶¶ 25-31 (Roman was convicted of simple possession of marijuana at age 19, but that's hardly in the same stratosphere as a federal criminal charge).

⁴⁶ Drake, *0 to 100 / The Catch Up* (Young Money Entertainment 2014).

consequences, and for most people the possibility of time in prison is the worst consequence related to their crime. And to be clear, Roman doesn't want to go to prison. But for him, the consequence blast radius extends far beyond just a loss of liberty; it will fundamentally reshape his future, and in a way he'll always regret.

ARGUMENT

For four reasons, Roman asks the Court to sentence him to time served.

1) The assault happened five years ago, but the couple stayed together, had more kids, and raised a family.

Roman assaulted Tashena six years ago. This doesn't make it any less bad, but it does change the way the Court should think about it in terms of the § 3553(a) factors. The factors contemplate various things when it comes to meting out punishment. Three are pertinent here, but in the opposite way than normal:

- (2)(B): “to afford adequate deterrence to criminal conduct”
- (2)(C): “to protect the public from further crimes of the defendant”
- (7): “the need to provide restitution to any victims of the offense”

First, it doesn't seem like Roman needs to be punished more than he has already been to deter him from future criminal conduct. This conduct happened six years ago. He's committed no crimes since, so deterrence is a non-factor. Second, additional punishment isn't needed to protect the public from further crimes of Roman for the same reason: this happened six years ago, and nothing has happened

since. Finally, Roman has been paying restitution to Tashena since the assaults happened. Maybe not in specifically earmarked dollars and cents, but definitely in terms of monetary support for her and the children they share. And putting Roman in prison will actually have a negative fiscal effect on the victim in this case, because it will take away one of the sources of income on which she relies to survive. These § 3553(a) factors therefore either don't favor incarceration, or will be hindered by incarcerating Roman.

2) Roman is finally sober.

Roman becoming and staying sober is at the heart of § 3553(a)(1)—“the history and characteristics of the defendant,” and it negates the need for (a)(2)(D)—“to provide the defendant with ... other correctional treatment in the most effective manner.” As detailed above, Roman's decision to assault Tashena is inextricably intertwined with his drinking. In fact, according to his PSR, “there were never any instances of domestic violence when he was sober” and he was “intoxicated during the previous assaults on his wife.”⁴⁷

Does he deserve a ribbon for only assaulting Tashena when he was drunk? Obviously not. But there's an undeniable causal link between his drinking and his violence. And when one is missing, so is the other. So his pointing to his sobriety is

⁴⁷ PSR at ¶¶ 9, 39.

an important consideration as the Court makes its sentencing decision. Sober Roman doesn't commit domestic violence.⁴⁸ Drunk Roman does.⁴⁹ Today Roman is sober.⁵⁰ That's easy math: Roman stays sober equals Tashena stays safe.

3) Sending Roman to prison would unfairly punish Tashena.

While prison for Roman would satisfy § 3553(a)(2)(A)'s goal of providing "just punishment for the offense," it would also provide unjust punishment for Tashena. And she knows it, which is why she's asked the Court to sentence Roman to time served.⁵¹ The reason? The two share six children, the youngest being 18-month-old twins.⁵² So a prison sentence for Roman is also a punishment for Tashena. No person is equipped to be a single parent of six children, including young twins. So no amount of "just punishment" or "respect for the law" is worth it to Tashena.⁵³ She needs Roman's help. And putting him in prison does the opposite.

⁴⁸ *Id.* at ¶ 9.

⁴⁹ *Id.* at ¶ 9, 39.

⁵⁰ *Id.* at ¶¶ 39-40.

⁵¹ Exhibit 1 (Tashena Letter) at 1. Tashena only submitted a photo of the letter she wrote, so Roman also typed up the letter and filed it as Exhibit 2.

⁵² PSR at ¶ 35.

⁵³ *See* 18 U.S.C. § 3553(a)(2)(A).

In domestic violence cases especially, listening to the victim's wishes is important. Here, the victim is Tashena. And she doesn't want Roman to go to prison.⁵⁴ Their family is just now reconciling, in a deep and substantive way. The last thing this delicate ecosystem needs is a 24-month hiatus by one of its lead actors.⁵⁵ The irony of this seemingly backwards logic is not lost on Roman. But it's true. And he's of better service to the victim in this case if he remains at home, with her, and continues to be a good father to their six children. Because for all the bad he's done these past 10 years, one thing has remained constant: Roman has been a good father to his kids. And that must count for something.⁵⁶

4) Roman has been punished enough.

Unlike other defendants with "similar records who have been found guilty of similar conduct,"⁵⁷ Roman's conviction has the additional punishment of precluding him from ever being a police officer again. This is a big deal. This case ended Roman's law enforcement career. The career he loved and wanted his whole life. While it's 100% his fault, it's also 100% true that this is a significant punishment

⁵⁴ Exhibit 1 at 1.

⁵⁵ PSR at ¶¶ 45-46.

⁵⁶ See 18 U.S.C. § 3553(a)(1).

⁵⁷ *Id.* at § 3553(a)(6).

already imposed. A large portion of Roman's identity was being a cop. He's now going to have to change who he is and what he does going forward. Put another way, his punishment for this crime will not end the day he gets out of prison, should he receive a sentence. Instead, it will be with him forever, as each day he goes to work at a different job than when he was a police officer, he will think about it. This unique, additional punishment is "sufficient, but not greater than necessary" to account for his crime.⁵⁸ By contrast, sentencing Roman to time in prison is greater than necessary "to comply with the purposes set forth in" 3553(a).⁵⁹

CONCLUSION

Roman comes before this Court hat in hand. He drunkenly assaulted his wife multiple times. It's a repugnant crime that demands punishment. But the Court should also listen to the voice of the person closest to the case: Roman's wife, Tashena. She believes Roman losing his law enforcement career, his gun rights, and being forever branded a felon is enough punishment.⁶⁰ A prison sentence is a bridge too far. For this reason, and those contained in this sentencing position, Roman asks

⁵⁸ *Id.* at § 3553(a).


⁵⁹ *Id.*

⁶⁰ Exhibit 1 at 1.

the Court for mercy in the form of a time-served sentence. Not because he deserves it; because Tashena wants it, and because his kids need it.

Dated: July 18, 2024

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dane", with a large, stylized loop at the beginning and a horizontal line extending to the right.

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